IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1238 of 1999

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

1 to 5 : NO

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NATWARLAL ISHWARLAL JARIWALA & 4 - Petitioner(s)

Versus

COMPETENT AUTHORITY & ADDL COLLECTOR & 1 - Respondent(s)

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Appearance :
MRS KETTY A MEHTA for Petitioners
MS MINI NAIR for Respondents

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT
1st August, 2007

ORAL JUDGMENT

The petitioners in the present petition are the holders of the land, Survey Nos. 97 & 98, situated at

Bhestan, District-Surat. The petitioners challenge the Order dated 3rd March, 1993 made by the State Government under Section 34 of the Urban Land [Ceiling & Regulation] Act, 1976 [hereinafter referred to as, "***the Act***"].

The petitioners, holders of the land, declared their holding to the extent of 17,603 sq.m. in Form-I as envisaged by Section 6 of the Act. The competent authority processed the said declaration. By its order dated 15th September, 1987, the Competent Authority was pleased to hold that the petitioners were entitled to retain the land equal to five times the ceiling area and that they did not hold excess vacant land. The said order was taken into *suo motu* revision by the State Government in exercise of power conferred by Section 34 of the Act. The State Government confirmed the finding that the petitioners were entitled to hold land equal to five times the ceiling area, however, did not approve deductions made by the competent authority. The State Government, by its order dated 3rd March, 1993, held that the land admeasuring 10,605.48 sq.m. held by the petitioners was "*excess vacant land*", liable to be

acquired under the Act. Since the said order a final statement was drawn, by notification issued under section 10 [3] of the Act, the *excess vacant land* was vested in the State Government. The possession of the excess vacant land was thereafter taken over.

It appears that the above referred lands - Survey Nos. 97 & 98 were the subject matter of Town Planning Scheme No.21-Surat framed under the Gujarat Town Planning Act. Under the said Town Planning Scheme, the land Survey No. 97-*paiki,* admeasuring 5564 sq.m held by the petitioners, was given original Plot No. 41; and the land-Survey No. 98, admeasuring 12,039 sq.m., was given original Plot No. 40. Under the said TP Scheme No.21, after reconstitution of plots, the petitioners were allotted Final Plot No. 40 admeasuring 8,470 sq.m. and Final Plot No. 41 admeasuring 3,900 sq.m. Thus, the holding of the petitioners has been substantially reduced.

Mrs. Mehta has submitted that to meet with such a situation, the State Government has issued a Circular on 10th June, 1987. Under the said circular, the competent authorities have been issued instructions to take into consideration the

alteration in plot area alloted under the T.P Scheme. Mrs. Mehta has submitted that in view of the aforesaid development, the State Government may be directed to reconsider its order dated 3rd March, 1993 made under Section 34 of the Act.

Ms. Nair has contested the petition. She has submitted that before allotment of final plots to the petitioners, proceedings under the Act were concluded and the possession of *excess vacant land* was taken over by the State Government. Besides, the State Government has no authority to review its own order.

It is apparent that until the year 1998, the petitioners were not informed about allotment of final plots of reduced area under the Town Planning Scheme No.21, Surat. In my view, fairness requires that the petitioners' holding be reconsidered *afresh* in light of the final plots allotted to the petitioners under the Town Planning Scheme No.21, Surat.

In above view of the matter, the petition is allowed to the extent that the State Government may, after giving opportunity of hearing to the petitioner

no.1-Shri Natvarlal Ishwarlal Jariwala, reconsider its order dated 3rd March, 1993 in light of the area of the final plots allotted to the petitioners under the Town Planning Scheme No.21. After reconsidering the same, the State Government may declare excess vacant land held by the petitioners afresh. Such exercise shall be completed *within* three months from *today*. Till the decision is taken and is communicated to the petitioners, *status quo* ordered to be maintained pending this petition shall be continued.

Subject to the above direction, the petition is disposed of. Rule is *discharged*. The parties shall bear their own cost.

Registry will send the *writ* forthwith.

{Ms. R.M Doshit, J.}

*Prakash**